

PUBLIC HEARING
STATE OF CALIFORNIA
CALIFORNIA STATE AUDITOR
BUREAU OF STATE AUDITS

In the Matter of:)

Selection Process for the)
Citizens Redistricting Commission)
and the Applicant Review Panel in)
the Implementation of)
the Voters First Act)
-----)

STATE AGENCIES BUILDING
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ORIGINAL

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Troy Ray

A P P E A R A N C E SFOR THE STATE AUDITOR'S OFFICE

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Margarita Fernandez, Chief of Public Affairs

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PUBLIC SPEAKERS

Warren Conklin

Joel Murillo

Venancio Gaona

Elsbeth Feldman, AARP

Jim Wright

John Gordon

Mike Bisbee

Francine Farber, League of Women Voters of Fresno

Mary Savala, League of Women Voters of Fresno

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P R O C E E D I N G S

PANEL CHAIR REILLY: So it's 11:30, so we're going to go ahead and get started. I'm Sharon Reilly. I'm chief counsel at the State Auditor's office. And I'll let my other panelists introduce themselves.

PANEL MEMBER FERNANDEZ: I'm Margarita Fernandez. I'm the chief of public affairs at the State Auditor's office.

PANEL MEMBER RAMIREZ-RIDGEWAY: And I'm Stephanie Ramirez-Ridgeway. I'm senior staff counsel at the Bureau of State Audits.

PANEL CHAIR REILLY: So I have a few introductory comments before we invite you to give us your comments. First we'd like to thank you for your participation in today's meeting regarding the implementation of the Voters First Act. As you are aware, California voters approved this new law in November of 2008.

As stated in the meeting notice, this meeting is to solicit comments regarding the State Auditor's role in implementing the Voters First Act. I know there's lots of interesting questions about what the redistricting commission's going to do itself, but our role is limited to formation of the commission. So we're soliciting feedback and your thoughts on that.

So basically we are charged with forming an

1 Applicant Review Panel to assess the applicants and create
2 an applicant pool of 60 qualified members. The comments
3 received at this meeting may be considered as the State
4 Auditor develops and establishes processes that are
5 necessary to implement the Act.

6 We are here to gather information from the
7 public, not to engage in a debate of law or discuss the
8 merits of the Act. We're just here to get feedback on,
9 now that we have it, how can we best implement. We may
10 occasionally ask follow-up questions or ask you to clarify
11 your comments so that we may fully understand them.

12 Our purpose here today is to listen to your
13 thoughts and concerns regarding how the State Auditor can
14 go about best implementing the Act.

15 I have a comment that's sort of in response to
16 comments we've had at other meetings. And the purpose of
17 these meetings is really to get feedback from the public
18 on the regulatory process that would be needed to
19 implement the Voters First Act. As a side component of
20 that, this is our first opportunity to start reaching out
21 to the public and educating them about the redistricting
22 commission; but beyond these meetings, we are in the
23 process of developing a much broader outreach program. So
24 I want you to keep in mind that if you have thoughts about
25 how we could best go about doing that, we'd love to hear

1 them.

2 Let's see. If the State Auditor determines that
3 additional meetings are needed, we may schedule future
4 meetings. In fact, we have scheduled an additional
5 meeting in March in Sacramento.

6 And basically what I've been doing with these
7 meetings is just going row by row. There's a microphone
8 over there where you can make your comments. And if you
9 have any written comments, you can submit them to Barbara
10 over there, who is also part of our team. And written
11 comments may also be sent on our handout or via email.

12 And this meeting is being recorded, as you can
13 probably tell from the microphones, and we intend to make
14 the recording available on our website.

15 Before beginning your comments, we ask that you
16 state your name for the record.

17 If you would like to be added to our list of
18 interested persons for any future mailings regarding the
19 State Auditor's implementation of the Voters First Act,
20 you may sign up over there with Barbara, but doing so is
21 purely voluntary and is in no way a prerequisite to
22 addressing the panel.

23 So with that said, I think we'll start with the
24 first row with the gentleman right here.

25 Do you have any comments?

1 JUDGE CONKLIN: I hadn't intended on going first,
2 but that's okay.

3 PANEL CHAIR REILLY: Okay.

4 JUDGE CONKLIN: Are you Barbara Paget?

5 My name is Warren Conklin. And by way of
6 disclosures, I've been elected to public office for a
7 nonpartisan office on six occasions; the first three,
8 1968, 1970, and 1974, with opposition; the last three,
9 1980, 1982, and 1988 without. And I have been a proponent
10 of Proposition 11 to the extent that I participated with
11 local radio station discussions in San Luis Obispo and I
12 also helped prepare a public access film with the
13 vice-president of the League of Women Voters that I think
14 was seen only in San Luis Obispo and Eureka. But in any
15 event, that's basically my background.

16 And I'm hoping that my comments are responsive to
17 what you said. I don't think that what I've given relates
18 to what the commission's role is going to be or how
19 they're going to carry out their business. I'm just
20 concerned today with the formation of the commission. And
21 let me just take off the table, I don't have any
22 suggestions for the Applicant Review Panel. They have to
23 be three certified auditors, maybe, you know, two from the
24 big six or however many there are left now, and one from
25 an independent sole practitioner or small office auditor;

1 but I don't have any real strong recommendations in that
2 regard.

3 The first test that I view that the Auditor ought
4 to accomplish is to publish a list of criteria that she is
5 going to be using in evaluating the applicants for
6 membership on the commission. Obviously I'm assuming that
7 she's going to be interested in various characteristics of
8 diversity, ethnicity, gender, disability, geographical,
9 and so forth; and those characteristics ought to be
10 provided to the public early on so that they could comment
11 and perhaps even add or debate with the Auditor whether
12 certain things ought to be included in her considerations.
13 And I recommend that those should be done as soon as
14 possible but early in this calendar year so that they do
15 get out to the public.

16 Then the next thing I suggested was if one of the
17 characteristics is going to be geographical diversity, I
18 thought about it and became concerned that there might be
19 an over-weighting of the metropolitan areas of the state
20 and an under-weighting of the rest of the state. And it
21 just occurred to me that since there's going to be 60
22 commission members, if ultimately it were decided that
23 there had to be one commission member of the 60 panel from
24 each of the 40 Senate districts in the state, that would
25 accomplish geographical diversity. Okay. That gets up to

1 40. Then how do you get the other 20?

2 As I recommend in the letter that I submitted, I
3 suggest that each of the ten most populous counties get
4 two additional members of the 60-member panel that will be
5 first reviewed and evaluated. When I was making this up,
6 I found, much to my surprise, that Fresno County is now
7 the tenth largest in population and that San Francisco
8 County is twelfth. And that occurred to me that that
9 might create a political problem, because if San Francisco
10 is relegated to a role similar to the northern quadrant of
11 the state up in Humboldt and Siskiyou counties combined,
12 that that could create some problems.

13 And so if you just want to make a note in the
14 margin, I thought maybe a modification of that could be
15 two additional commission members from each of the five
16 most populous counties and then one additional member from
17 the next ten most populous counties. That would at least
18 give San Francisco County at least one more potential
19 commission member.

20 Then once those -- the characteristics have
21 been -- and I'm not sure that the geographical component
22 is a necessary characteristic to be established before you
23 see what kind of applications you get, I'm just suggesting
24 that that's one way of achieving geographical diversity
25 throughout the state.

1 But once those -- the characteristics have been
2 determined, then I think that the Auditor ought to
3 generate a standard application form that everybody who
4 wants to be considered for commission attendance, or
5 commission inclusion, would fill out the same form. And
6 it would have a number of boxes to be checked, I'm sure,
7 involving the various diverse characteristics that the
8 Auditor is seeking to consider. And also, obviously,
9 because of the nature of the -- Prop 11, you have to
10 disclose whether you're republican, democrat or none of
11 the above.

12 And the next thing that I thought about was are
13 letters of recommendation going to be allowed; and if so,
14 what are the characteristics of those letters? Are they
15 going to be restricted as to who can put them in, how long
16 they're allowed to be, and so forth? And in thinking of
17 it, I got to thinking that there is a problem here,
18 because if the Applicant Review Board is not permitted to
19 have -- to get input from any political person, and so if
20 you allow letters of recommendation, the problem might
21 exist as to how the letters can be screened to determine
22 whether perhaps a surrogate is being offered up, the
23 ex-brother-in-law of some political person or something
24 like that, so that you can't readily recognize by looking
25 at who wrote the letter if it's one of the prohibited

1 contacts.

2 And so I just got to thinking that because of
3 these problems and because if something untoward slipped
4 through, it could result in an attack on the actions of
5 the Applicant Review Board. Maybe it's just better off
6 having the Auditor say, okay, I'm going to accept the
7 application form, I'm going to accept whatever documents I
8 say are attached to the application form, I'm not going to
9 accept any other extraneous documents or information. And
10 that would eliminate that problem.

11 And lastly, I suggest that the Auditor should
12 adopt a time schedule of deadlines, because since the
13 Applicant Review Panel has to be certified by August 1st
14 of 2010, my recommendation is that the State Auditor
15 select April 30 of 2010 as being the last day upon which
16 applications can be submitted to her by applicants for
17 commission membership. And that would allow her to review
18 the applications; if there are deficiencies, the applicant
19 could be notified by the 1st of June, could get them back
20 to her by the 1st of July, and she would have a month with
21 the final applications before she's required -- I'm
22 sorry -- if when she gets them, then the panel review --
23 the Applicant Review Panel would have a month with the
24 final application forms to come up with the group of 60.

25 What I haven't spoken to, and I don't really have

1 a strong opinion on, other than, you know, if you could
2 suggest that one of the requirements for one commission
3 member be that he be a retired judge from San Luis Obispo
4 County, that would work for me, but I don't think that
5 that's going to fly. And so I don't really have a handle
6 on how the 60 are going to be split up, because obviously
7 you're going to have to have a hat with a bunch of
8 republicans in it, a hat with a bunch of democrats in it,
9 and a hat with a bunch of none of the aboves so you can
10 get the three, three, and two selected by random after you
11 get the screenings back from the political heads of the
12 legislature so that you have at least 52 names, and you're
13 going to have to have some in each category just in order
14 to fulfill the requirements of the statute.

15 So that's basically my thoughts. And I'd be
16 happy to entertain any questions if there are any.

17 PANEL MEMBER RAMIREZ-RIDGEWAY: Yes. Judge
18 Conklin, you mentioned something in passing in your
19 opening remarks about state auditors, two from the big six
20 and one from a private office.

21 JUDGE CONKLIN: The Applicant Review Panel, as I
22 understand it, consists of three state-certified auditors.
23 So I'm thinking that like -- I'm trying to think. It used
24 to be Ernst & Young; it's not anymore. But there's --
25 there are large accounting firms, used to be the

1 (unintelligible) now is the former -- the one that trashed
2 about four, five years ago.

3 Anyway, I'm just saying that that's one
4 possibility, is some of these people from the major firms
5 who have significant state auditing experience could be --
6 there could be some screen adopted for that, but I'm not
7 really -- that's not something in which I feel I have a
8 great deal of expertise, and so I'm not really making any
9 recommendation in that regard, I just know that the State
10 Auditor is going to have to choose three certified
11 auditors that constitute the Applicant Review Panel that
12 are going to take up to 60 and at least 52 applications
13 and sort them out and -- I'm sorry -- are going to take
14 all of the applications, come up with 60, then that will
15 be either 60 or 52 when it's been screened, and then the
16 Auditor will make the random selections from those
17 remaining.

18 PANEL CHAIR REILLY: Do you have any thoughts
19 about what the term "random" means in the context of the
20 initiative?

21 JUDGE CONKLIN: I think that once the panel of 60
22 has been established -- the panel of 60 is not a random
23 selection. The panel of 60 is selected for a number of
24 reasons, number of which will be established by the
25 Auditor and published, but not the least of which is

1 gender, ethnicity, other special interest characteristics,
2 geographical, population and so forth. So the Applicant
3 Review Panel is not engaged in a random process.

4 The only random process, as I view it, is after
5 the Applicant Review Panel has certified the 60. After it
6 gets back from the legislature and there are at least 52
7 and perhaps as many as 60 left, although I think that's
8 highly unlikely, but some will be excluded and some will
9 still be there, and there has to be at least 52 because
10 each head of the party and the Senate and the Assembly
11 only gets two pops, and so then from that 52, I think the
12 Auditor then has to separate it into the republicans,
13 democrats, and none of the above. And then it becomes
14 random.

15 Then you have -- you assign each one a number, or
16 however you do it; and in some kind of a random draw
17 process -- and frankly, I don't have an opinion as to
18 whether you should use a computerized random number system
19 or whether you should use a hat with a bunch of numbers in
20 it -- but some method of just adopting a random draw so
21 that whoever is selecting it isn't selecting a person,
22 it's selecting a chip that's been put in the mix that is
23 then translated into a particular applicant that will
24 qualify for the necessary components of the panel of eight
25 that then select the panel of six. Okay?

1 PANEL CHAIR REILLY: Okay. Thank you very much.
2 That was very helpful.

3 Would anybody else in this row like to speak?

4 MR. MURILLO: Good morning. My name is Joel
5 Murillo. I'm an attorney from Fowler, California. In
6 1988, 1989, 1990, 1991, the Latino Coalition of
7 Redistricting in California was formed in order to provide
8 guidance to the State of California in determining the
9 districts for the Assembly and the Senate and
10 Congressional districts. We also provided guidance with
11 regard to the supervisorial districts in the State of
12 California as well as particularly here in Fresno County.

13 Bottom line was that the three panel commission
14 that was established by the Governor at that time was
15 composed of retired justices of courts of appeal. That
16 panel adopted the lines with minor modifications that the
17 committee, of which I was a co-chair, put forth. Those
18 lines are basically the lines that you see today.

19 Thornburg vs. Gingles is the U.S. Supreme Court
20 decision that provides you guidance with regard to the
21 actual development of these jurisdictions. They must be
22 compact, contiguous, and have commonality of interest.
23 Compact, contiguous is very easy to understand. The
24 commonality of interest is what is trying to be
25 destabilized at this time. In other words, the net effect

1 that is attempted to be accomplished by Proposition 11 is
2 to have districts that are no longer going to be composed
3 of people with a commonality of interest. This is --
4 another way of looking at it is these are safe districts.

5 The reason that they are districts composed this
6 way was that initially there was quite a bit of racism
7 involved in the development of the districts. And when
8 Thornburg vs. Gingles was established by the United States
9 Supreme Court, the commonality of interest was one
10 mechanism by which African Americans and other minorities
11 would have the ability to have their own representatives
12 within these jurisdictions.

13 The idea now, although I think the people who
14 have put it together are very well meaning and I have the
15 highest respect for the League of Women Voters and many
16 other people involved in the process, it probably is an
17 illegal process that we are involved in right now.

18 You alluded to the fact that part of the
19 development of the composition of the commission will be a
20 random draw. This process does not guarantee the
21 representation that is necessary under the Constitution of
22 California nor the United States of America to assure that
23 there will be actual representation pursuant to the law.

24 In Thornburg vs. Gingles, the idea that a
25 commonality of interest was one of the most important

1 factors in determining a district is still good law. That
2 law has not been disturbed, it's not been overturned, the
3 U.S. Congress and the President have not adopted a law
4 that would change that. And so if the districts that are
5 going to be attempted to be drawn by this commission
6 attempts to destabilize the State of California by taking
7 away the commonality of interest within the districts,
8 then it will be unconstitutional.

9 Do you have any questions?

10 PANEL MEMBER RAMIREZ-RIDGEWAY: I wonder what
11 suggestions you have for avoiding that conflict.

12 MR. MURILLO: Well, that's a little bit too late
13 now, but the most important thing that you can do is to
14 understand that the lines that were drafted in 1991 -- or
15 adopted in 1991 were very much in tune with the idea that
16 a commonality of interest was a necessary and driving
17 force in developing all of these districts. If the idea
18 now is to develop competitive districts so that you are
19 now able to have different parties take a different area,
20 you are going to create a destabilization of a
21 constitutional structure that exists right now.

22 So the only real answer you have is pretty much
23 to abide by Thornburg vs. Gingles, and the districts that
24 are already in place actually follow that law.

25 PANEL CHAIR REILLY: The State Auditor's role,

1 our role is limited to forming the redistricting
2 commission itself. Do you have any suggestions about how
3 we would go about forming a commission that understands
4 the kind of concerns that you're raising?

5 MR. MURILLO: I am not going to buy into this
6 process in terms of its functionality, nor am I going to
7 give suggestions as to how it would become constitutional.
8 I am going to discuss this in a substantive way only, as I
9 have already done.

10 PANEL CHAIR REILLY: Okay. That's fine.

11 MR. MURILLO: Thank you very much.

12 PANEL CHAIR REILLY: Thank you.

13 MR. GAONA: Good morning. Thank you for coming
14 to Fresno.

15 PANEL CHAIR REILLY: Thank you for being here.

16 MR. GAONA: My name is Venancio Gaona. I'm a
17 retired instructor of 37 years. I've been involved in
18 trying to make some kind of social, political, educational
19 impact in the Latino community for many years. I have
20 been involved in the past, of course, in this
21 redistricting as it's taken place over each decade.

22 Some comments have already been made by the two
23 previous gentlemen, which were excellent. I shall try to
24 limit mine to the following: This commission that is
25 going to be formed, in the opinion of some of the

1 community people that I work with in the Latino community,
2 are very concerned, and I am concerned, that in the past
3 we have had a great deal of influence from other areas in
4 terms of state government and representation with a lot of
5 influence from southern California and the bay area.

6 I'm wondering -- we are wondering whether this
7 commission as it is being formed is going to provide
8 what -- a commonality of interest. Is it going to be
9 impartial? It is going to have or contain geographical
10 representation? We know, for example, we, locally, have
11 had a difficulty just getting an educator on the State
12 Board of Education.

13 I think that the San Joaquin Valley deserves
14 greater representation, that the civil rights or the
15 Voting Rights Act came about in order to give minority
16 people greater voice participation, the Voting Rights Act.
17 Now we're going to be -- now we're going to be, shall we
18 say, governed in an indirect way by this commission who is
19 going to make decisions for us but that we may or may not
20 have that participation as was mentioned before of
21 diversity. Is it going to have an equal representation?
22 As we have a greater representation -- greater growth of
23 population of Latinos and other ethnic groups, is that
24 commission going to be representative of that growth?
25 Will it have that vision in terms of future constitutional

1 decisions or representation?

2 So in conclusion, I submit to you you need to
3 consider that that commission is going to be
4 representative of a lot of groups. How you're going to do
5 it, I don't know. If letters of recommendation, for
6 example, are going to suggest that Johnny Dokes from the
7 bay area and Juan Lanas from L.A. be perhaps the
8 representatives and they're going to have letters of
9 recommendation from a high-powered person, are those
10 people going to be on the commission versus somebody from
11 the San Joaquin Valley or Latinos or other ethnic
12 minorities?

13 So I leave you with that thought. I would concur
14 with the previous speaker that we had something going in
15 terms of commonality of interest to represent the growth,
16 the political participation of minority groups, especially
17 in the San Joaquin Valley. Now we have to change
18 direction and go through another labyrinth to see how we
19 can participate.

20 Thank you very much.

21 PANEL CHAIR REILLY: Thank you.

22 So looks like we can move to the second row.
23 Does anybody have comments? Do you have comments?

24 Thank you.

25 MS. FELDMAN: Hello. I'm Elsbeth Feldman. I'm

1 here to represent AARP. On behalf of AARP's more than
2 3.4 million California members, we urge the Bureau of
3 State Audits to engage in a broad outreach to the state's
4 diverse populations to ensure that the citizens commission
5 properly reflects the diversity of California.

6 In addition, AARP believes strongly that the
7 creation of the citizens commission should be conducted
8 with the highest degree of transparency to ensure that the
9 process is fair and open. As one of the authors of
10 Prop 11, AARP stands ready to reach out to our members to
11 help the process in any way that would be helpful.

12 AARP will soon be submitting formal, more
13 detailed written comments to the Bureau. Thank you.

14 I'm from Oakhurst, so I agree, you know, we need
15 to have representation from this area. Thank you.

16 PANEL CHAIR REILLY: Thank you.

17 Does anybody else -- would you like to make
18 comments?

19 UNIDENTIFIED AUDIENCE MEMBER: Are we going to
20 have another opportunity if we don't go now?

21 PANEL CHAIR REILLY: Yes, you will. I'll ask for
22 further comments.

23 Anybody else in the second row who would like to
24 make comments?

25 How about the third row. Yes? Okay.

1 MR. WRIGHT: Good morning. I'm Jim Wright, a
2 voter from San Jose.

3 Had an idea last week. After the San Diego
4 meeting we had some question about how we are going to
5 reach all the voters of California. So I sent an email to
6 Barbara.

7 I got this in the mail from my registrar of
8 voters. How about talking to them, getting them to
9 include a page or so in their next mailing to their
10 voters? By the end of this year you're going to reach
11 every voter in the state. Cost effective.

12 PANEL CHAIR REILLY: Thank you.

13 Is there -- I've gone through all the rows. Is
14 there anybody else in the room who would like to make
15 comments?

16 MR. GORDON: Hello. I'm John Gordon. I may --
17 my perspective might be a bit colored by the fact that I'm
18 a Kings County voter. Since the 1990 census, we've lost
19 our voice to either, depending on the Assembly or state
20 Senate, the metropolitan area, Fresno City, or the
21 metropolitan area of Bakersfield. And I'm also an
22 attorney, so I tried to look at what your criteria was
23 from an attorney's standpoint.

24 And to start out with -- the first question is
25 the third member of that initial panel, that third

1 auditor, you know, if it's somebody -- it's supposed to be
2 somebody that's not affiliated republican or democrat
3 theoretically. Now, should it be somebody that's just
4 registered independent or should it be somebody registered
5 that's a libertarian that pretty much dislikes both of the
6 other two parties, or should it be somebody from the Green
7 Party that pretty much dislikes both parties but has some
8 agreement with the democratic party? So I think that
9 might be your first obstacle to create a fair and
10 impartial commission.

11 And then secondly, when this auditing panel is
12 put together, in order to create the greatest amount of
13 objectivity, I believe that the name should be taken off
14 the applications to try to create that -- at least the
15 thought -- just like in law school, we took essay exams,
16 and they just assigned us a test number to make it look
17 objective. I mean, granted we're not going to have
18 Serbian-versus-Croates type problem, you know, where you
19 see somebody's last name and you just hate them, but just
20 the attempt to create a more objective approach.

21 And then getting into the crux of putting
22 together that 60-person pool, I mean, that's your next
23 crucial step. You need to find 60 qualified people from a
24 diverse -- in that question of diversity -- and when you
25 talk about diversity and the demographics within that

1 criteria, when you get into the demographics, you could go
2 with the -- a very narrow view of what's put in the
3 14th Amendment, you know, race, creed, and color, or you
4 could get down to demographics of what shoe size they
5 wear. So I mean, there's a broad interpretation that
6 could be brought in within the thought of demographics.

7 Now, myself, I think of -- when I think of
8 demographics, I think there's a large difference between a
9 Kings County republican and a republican or conservative
10 thinking person from Orange County. Just like in Fresno,
11 a Fresno democrat has different interests or thoughts than
12 a democrat that, say, lives in the Knob Hill district of
13 San Francisco. So within demographics and being diverse,
14 not only do you need that party diversity, you need the
15 diversity within the parties as well.

16 And same thing with the independents or
17 third-party people. You know, you have, like I stated
18 before, you know, your Green or your Peace and Freedom
19 party, you know, the only person they might agree with
20 might be some of the more liberal democrats. And, you
21 know, libertarians, you know, they, like I said before,
22 they disagree with most of the structure that we have in
23 our political system. And independents, in theory they
24 disagree and agree with both of the two major parties to a
25 certain degree.

1 Thank you for your time. And from the criteria
2 that you guys published on the website, I figured that was
3 the best way to address you guys rather than to get into
4 political disagreement at this -- in this forum.

5 Thank you for your time.

6 PANEL CHAIR REILLY: Thank you. We really
7 appreciate that.

8 Is there anybody else who would like to comment?
9 Okay.

10 MR. BISBEE: My name is Mike Bisbee. I'm one of
11 those Orange County republicans.

12 MR. GORDON: I didn't say you were a bad guy.

13 MR. BISBEE: Well, that's true; I didn't say I
14 was either.

15 I originally wasn't going to say anything today,
16 but there's been a few things said that I think that I
17 need to say something to at least feel better with myself
18 when I leave the meeting.

19 I need to first apologize for not doing this in
20 writing. I just became aware of this in the last week or
21 so, haven't had time to do that, but I promise you I will
22 put some of this stuff in writing and get it to you.

23 One of the things that I would ask you, if I get
24 political today, throw something at me, because I don't
25 want to do that, and there's obviously been a little bit

1 of that today, and that's not the purpose of this meeting.

2 My concern is that, like it or not, politics is
3 going to get involved in this. A lot has been said about
4 diversity. I mean, there's gender diversity, there's age
5 diversity, there's ethnic diversity. And it's kind of
6 hard to avoid that. But if you try to deal with that too
7 much, you're going to have 250 people on a list of 60, and
8 somebody's going to get left out and somebody's going to
9 be upset. So I don't think you can make that a main
10 criteria in your process of choosing.

11 So what you have to look at I think is more of a
12 broader base. And my background is basically I'm a
13 retired telephone man, so I don't have a lot of the
14 structure and legal aspects and education a lot of these
15 people have, so mine is more of a pure -- of having done
16 it and been successful at some things and unsuccessful at
17 others. And I think that's -- I really think that's the
18 kind of person you're looking for. You're looking for
19 somebody who represents a broader part of the economy.

20 Now, I've done some work as a consultant and I've
21 used statistics a lot of my life. And my experience has
22 been is if you throw 50 coins up in the air, 95 percent of
23 the times you'll get within 5 percent, 25 heads and 25
24 tails. And I guess my feeling is that's maybe the
25 approach you ought to take here. Is that if you do

1 everything properly, when you get through, you're going to
2 have as diversified a population on your commission as is,
3 let's say, statistically possible. And you won't please
4 everybody, and there will be a lot of people upset; but
5 it's been my experience in the past that when you make
6 decisions, if half the people are mad and half are happy,
7 you've probably made the right decision, and I think
8 that's what you're going to wind up with.

9 Some things that I jotted down today just
10 thinking about as far as who should be on that commission,
11 probably should not matter if you're -- if you graduated
12 from Fresno State or Harvard, that probably shouldn't
13 matter. Or maybe if you don't even have a college
14 education, that shouldn't matter either. It shouldn't
15 matter -- you shouldn't allow letters from politicians
16 recommending somebody, because that, no matter whether you
17 believe it or not, that's going to taint the pool. Even
18 with best intentions, that's going to taint the pool.

19 There probably shouldn't be any specific
20 affiliations. And I'm thinking things like -- like a
21 PETA, boy scouts, all these organizations. If you start
22 looking at those kinds of associations, again, it's going
23 to be tainted.

24 So what should your pool be? Your pool should be
25 based on skills and ability based on the criteria that you

1 establish for your auditors. And then create your base
2 from there and draw your names out of a hat. And I know
3 people get scared today, we've heard it, that you're
4 scared to death if you draw names out of a hat that
5 somebody is going to be underrepresented; and that's going
6 to happen. But statistically, over a large base, and to
7 be as honest as you can to everything, the best way to do
8 it is to create your pool based on honest, unbiased
9 criteria, and then draw your names out and build your
10 commission from there.

11 PANEL MEMBER RAMIREZ-RIDGEWAY: So what does a
12 retired telephone man and consultant think are the
13 relevant skills and abilities?

14 MR. BISBEE: Somebody who doesn't think the
15 democrats or the republicans, either one, are correct.
16 Somebody who doesn't think that everything should be all
17 men or all women or all black or all white. Somebody who
18 thinks that living your life in this country is a
19 responsibility, and that government is not the answer,
20 government is the problem.

21 Now, I haven't given a lot of thought about the
22 25 individual criteria that make up that person, I will
23 try to do some of that and get that to you in writing; but
24 there's too much -- there's too much bias in our society
25 today. You know, we have gone away from being a melting

1 pot to being a multicultural society, and with a
2 multicultural society, as much as we try to make that
3 work, you have pockets of different cultures. And there
4 is no group you're going to build, less than 5,000 people,
5 that's going to properly represent all those little
6 pockets.

7 So all you can do is the best you can to look at
8 it from a broad base, that you're representing people of
9 broad bases, you're representing counties, you're
10 representing cities, you're representing neighborhoods.
11 And somehow you have to come up with a criteria that
12 quantifies and identifies a group that represents those
13 different aspects.

14 And if it was me, I would say try to represent
15 the geography more than the pockets and groups. Because
16 statistically across the geography, the groups are going
17 to zero out within a 95-percent probability. And that's a
18 statistician talking. But that's my background. And my
19 experience has shown that more often than not, you get the
20 right answer when you stay away from the biases and go
21 with probabilities.

22 Thank you.

23 PANEL CHAIR REILLY: Thank you

24 PANEL MEMBER RAMIREZ-RIDGEWAY: Thank you.

25 PANEL CHAIR REILLY: Is there anybody else who

1 would like to make comments?

2 Don't be shy. Yeah, please. Thank you.

3 MS. FARBER: I'm Francine Farber from the League
4 of Women Voters of Fresno. And I don't have any prepared
5 statement, but I have some -- let me just call them,
6 speaking of random -- random thoughts that I'd like to
7 share as I sat here listening and a few that I thought
8 about beforehand.

9 I think the issue of conflict of interest is a
10 really significant one. And given the difficulty in
11 vetting that we've seen in Washington recently, I think
12 that's going to be kind of an awesome task; and so I think
13 it is important to publish the names of the applicant pool
14 and circulate them wildly and widely, because I think that
15 would give a lot of people an opportunity to comment and
16 to bring forward potential conflicts.

17 The gentleman who talked about including
18 announcements in the voter information, when he said that,
19 it also occurs to me that including them in, for example,
20 PG&E utility bills would also be a way of reaching
21 everybody.

22 I hope that the commission might be able to meet
23 in various parts of the state other than in Sacramento all
24 of the time, because I think it might present a hardship
25 for people in some areas to have to travel to Sacramento

1 only.

2 As far as locally within the valley, I'm sure you
3 know that there's a very strong southeast Asian population
4 and that population most often can be best reached
5 through, for example, Hmong radio, rather than written or
6 print media, and also through television. So there, for
7 example, is a local Hmong radio station, Enradio Bilingue.

8 We discussed a little bit the kind of person that
9 we thought might make a good commissioner, and there's
10 some feeling that although it shouldn't be overly weighted
11 in this direction, we certainly could see some academics
12 being qualified to serve on the commission.

13 I would be very concerned if the randomness --
14 and it can happen statistically, statistics are funny --
15 if the randomness turned up 13 non-minority people and 1
16 minority person for the commission in any sense of
17 minority. And I don't know what failsafe measure you can
18 put into place, but I think maybe that needs to be
19 addressed also.

20 And basically, you know, I feel confident that
21 the whole effort behind the redistricting is to ensure
22 diversity, so I think that's really the intent of this,
23 and I don't feel that some commonalities of interest will
24 supersede that concern. I think that's a really important
25 concern today in California.

1 So thank you.

2 PANEL CHAIR REILLY: Thank you.

3 PANEL MEMBER RAMIREZ-RIDGEWAY: Thank you.

4 PANEL CHAIR REILLY: Does anybody else have
5 comments?

6 JUDGE CONKLIN: Just one point --

7 PANEL CHAIR REILLY: You have to come up here,
8 I'm sorry, and state your name again because we're
9 recording.

10 JUDGE CONKLIN: Warren Conklin again. Just one
11 point, and that is, I think, at least as I read Prop 11,
12 it was the intent to have the first eight commission
13 members select the next six commission members to address
14 disparities in diversity that may occur on a random basis.
15 And so I would hope that anybody who is selected as a
16 commissioner understands that one of his or her
17 responsibilities is to assure that the commission has a
18 broad base constituency.

19 PANEL CHAIR REILLY: Thank you.

20 Yes.

21 MR. GAONA: I just want to underline -- again,
22 the name is Venancio Gaona. I served on the Fresno County
23 Grand Jury in 1972. And since that time I've also
24 monitored the Fresno County Grand Jury. And I've noticed
25 how in their fairness there has been a lack of minority

1 representation. So what does that have to do with this?
2 You have judges who select members of the community to
3 serve on the Fresno County Grand Jury. And I'm not saying
4 that Fresno County discriminates, I'm just saying that
5 their best efforts have not given at times representation
6 of diverse groups, not only Asians, but Native Americans,
7 et cetera.

8 So I would caution that you really need to give
9 this a lot of attention, and that those eight
10 commissioners or ten commissioners, whoever is going to
11 select the rest of them, need to give that strong
12 consideration.

13 Thank you.

14 PANEL CHAIR REILLY: Thank you. Would anybody
15 else like to comment? Sure.

16 MS. SAVALA: I am Mary Savala, also with the
17 League of Women Voters in Fresno.

18 And following my listening to Mr. Gaona, it
19 occurs to me that there is going to be some challenge to
20 diversity on the commission. If commission members who
21 are employed in this state have to give up a good deal of
22 time to serve on the commission, you're going to be
23 restricting your pool of people who will be able to serve.
24 And that is something that should be very seriously
25 addressed, and I suspect it's the reason we don't have

1 diversity on grand juries around the state as well.

2 Thank you.

3 PANEL CHAIR REILLY: Thank you for your comment.

4 Is there anybody else who would like to comment?

5 MR. GORDON: Can I ask a question?

6 PANEL CHAIR REILLY: Yes.

7 MR. GORDON: I'm John Gordon again.

8 Now, when the applicants -- are they going to be
9 ranked, and if so, is there -- not only the process of how
10 the application -- the way it's analyzed and the ranking
11 of the people, is that going to be published so that
12 it's -- you know, so that we make the process as open as
13 the redistricting discussion is stated within the ballot
14 initiative so that we know why people were within that
15 pool of 60 and why some were not?

16 PANEL CHAIR REILLY: That's a really good
17 question. And part of the purpose of these meetings is to
18 get questions like that raised so that as we get closer to
19 making decisions, we know that there's concerns about
20 transparency, et cetera; but as an overall comment, I can
21 say that we are very committed to having a transparent
22 process.

23 MR. GORDON: So not only the criteria, but
24 basically how people were judged when they applied as
25 well.

1 PANEL CHAIR REILLY: And that's definitely a
2 decision point that we have to make. And we haven't done
3 it at this time because right now we're in the process of
4 having these meetings to get the public feedback. And
5 that's an excellent question, and that will be something
6 that we consider as we're making the decisions, as the
7 State Auditor is ultimately making the decisions about how
8 this is going to operate.

9 MR. GORDON: You mean how open it's going to be,
10 or what the criteria is going to be?

11 PANEL CHAIR REILLY: Both, both. Because there's
12 different ways that we can be open. You know, how much of
13 applications we're going to share, are we going to share
14 names. There's a full range of things we need to
15 consider. And right now we're at the information-
16 gathering stage.

17 And the process -- we'll be going through the
18 regulatory process, so there will be more opportunities
19 for public input as we go along. So when the decisions
20 are made, you'll see what they are. And if you have
21 concerns, you will have another opportunity to raise
22 concerns.

23 MR. GORDON: So things are at their infancy right
24 now, it's just beginning, and once --

25 PANEL CHAIR REILLY: Yes.

1 MR. GORDON: -- once the criteria is set, then
2 there will be opportunity for public comment --

3 PANEL CHAIR REILLY: Absolutely.

4 MR. GORDON: -- maybe some amendment?

5 PANEL CHAIR REILLY: Absolutely.

6 MR. GORDON: Okay. Thank you.

7 MR. WRIGHT: Jim Wright again.

8 John raised a very interesting point. And the
9 question I've got related to that is simply if someone in
10 the application process has been rejected, will that be
11 published as well as the criteria that were used for
12 accepting someone?

13 PANEL CHAIR REILLY: I think that's another
14 important question that we need to consider.

15 MR. WRIGHT: Right, both sides need to be
16 covered.

17 PANEL CHAIR REILLY: Right.

18 MR. WRIGHT: Thank you.

19 PANEL CHAIR REILLY: Is there anybody else who
20 would like to comment? No?

21 MR. GAONA: Thank you for coming to Fresno.

22 PANEL CHAIR REILLY: Well, thank you for coming
23 to this meeting.

24 We're going to hold it open until 1:30. So if
25 you know of anybody else who wasn't able to make it yet

1 and would like to be here, we will be here till 1:30.

2 PANEL MEMBER FERNANDEZ: And please keep checking
3 our website. We are in the process of updating it. We
4 have translated some of the information to two languages
5 and are in the process of getting four other languages; so
6 please check our website. If you don't know the website,
7 you can pick up one of the fliers as you go out. And if
8 you know of anybody and they want to provide comments to
9 us, please tell them to do so.

10 PANEL MEMBER RAMIREZ-RIDGEWAY: And they don't
11 have to come to meetings to provide comments. They can
12 mail them to us or submit them via the internet.

13 MR. WRIGHT: When will the audio be published?

14 PANEL MEMBER FERNANDEZ: It takes about six to
15 ten days is what we have.

16 PANEL MEMBER RAMIREZ-RIDGEWAY: No, audio.

17 PANEL MEMBER FERNANDEZ: Oh, I'm sorry, the
18 audio. It's a transcription. It will be a transcription
19 of what was said here, what was said in Sacramento, what
20 was said in San Diego. We'll have the one from Sacramento
21 posted shortly, within a couple of days; we should have
22 the one from San Diego in, I think, about three to four
23 days; and then from this one, it's six to ten days. So
24 we'll have them all posted there.

25 MS. FARBER: Perhaps you covered this before I

1 came in, but after you finish this first round of hearings
2 in the other cities as well as here, what is your next
3 step? And when will it take place?

4 PANEL CHAIR REILLY: We actually should have a
5 timeline put on our website. I think our goal is to get
6 it up tomorrow. But we will be going through the
7 regulatory process, so there will be more opportunities.
8 The best thing is just to keep checking the website about
9 where and when we're going to have additional meetings.

10 PANEL MEMBER FERNANDEZ: Thank you for coming.

11 PANEL CHAIR REILLY: Yes, thank you very much for
12 coming. We really appreciate the feedback. It was great.

13 (Recess.)

14 PANEL CHAIR REILLY: We were here until 1:30. No
15 one else has shown up to attend the meeting, so we are
16 adjourning at 1:30. Thank you.

17 (Thereupon, the February 19, 2009,

18 California Bureau of State Audits

19 Public Hearing was adjourned at 1:30 p.m.)

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CERTIFICATE OF REPORTER

I, TROY RAY, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing Bureau of State Auditors Public Meeting; that thereafter the recording was transcribed.

I further certify that I am not counsel or attorney for any of the parties to said Public Meeting, or in any way interested in the outcome of said Public Meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of February, 2009.


----- TROY RAY -----